

22. An [assembly] apparatus as claimed in Claim 21, wherein said opening rests against said central region when said valve member is in its closed position.
23. An [assembly] apparatus as claimed in Claim 20, wherein said subunit comprises a valve retainer for securing said flexible valve member in said subunit.
31. An apparatus as claimed in Claim 1, further comprising a cover, said valve holder being located in said cover, and a cup, said cover being adapted to attach to said cup.
32. An apparatus as claimed in Claim 2, further comprising a cover, said flexible valve member being located in said cover, and a cup, said cover being adapted to attach to said cup.
33. An apparatus as claimed in Claim 3, wherein said opening comprises a slit.
34. An apparatus as claimed in Claim 5, wherein said opening comprises a slit.

Remarks

Receipt is acknowledged of the Office Action dated March 30, 2000¹. A three month extension of the time provided for a response is respectfully requested. A check for \$962 in payment of the three month extension fee (\$890) and the fee for the four new dependent claims (4 x \$18 = \$72) is enclosed. Should any further fees be necessary, the Commissioner is hereby

¹ Two copies of the Office Action were forwarded to counsel's attention. The first was dated February 2, 2000. The second copy, dated March 30, 2000, corrected the prior Office Action and restarted the period for response.

authorized to charge counsel's deposit account, Account No. 501604, for all amounts required.

Applicant notes that the filing date of this application was incorrectly listed on the Office Action as August 22, 1998. The correct filing date is August 21, 1998. A Petition to Correct the Filing Date of this application was filed on December 21, 1999 in this application, but no decision has yet been received. The petition includes a copy of the receipt from the U.S. Postal Service acknowledging that the date of deposit of the application was August 21, 1998. Prompt and favorable action by the Patent Office on the petition is respectfully requested.

In the Office Action, all of the pending claims were rejected under 35 U.S.C. §102(b), the rejection being alternately based on any one of U.S. Patent No. 5,706,973 issued to Robbins III et al. ("Robbins"), U.S. Patent No. 5,890,621 issued to Bachman et al. ("Bachman"), or U.S. Patent No. 5,890,620 issued to Belcastro ("Belcastro"). Reconsideration of the application is respectfully requested. Certain of the pending claims have been amended to more distinctly and particularly recite the subject matter of Applicant's invention. Other claims are believed to be patentable in substantially the same form as previously presented. A minor typographical error in the specification has been corrected, as well. It is believed that all of the amended and pending claims are fully allowable.

In accordance with the invention, a no-spill cup apparatus is provided which includes both a flexible valve member having an opening therein, and a blocking element. The prior claims which refer to a sealing portion have been amended to refer to that part as a blocking element, to more distinctly indicate that the element referred to is a section of material which is impenetrable to or "blocks" the passage of liquid. In addition, independent Claims 3 and 5 have been amended and new Claims 31 - 32 have been added to particularly claim a complete no spill cup including the valve of the present invention, and not just the valve or valve holder.

When a person drinks from a cup constructed in accordance with the invention, suction

(negative air pressure) is applied to the flexible valve material. This suction causes the flexible material to lift off of the blocking element, moving the slit off of that blocking element. In addition, since the valve material is flexible, the flexing of the material will also stretch the slit, facilitating the passage of liquid through the valve.

When a person finishes drinking or when the cup sits on a table, no suction is being applied to the valve. During this time, the flexible valve sits with the slit against the blocking element. In addition, the slit is not being stretched and is in a closed position.

Thus, two separate mechanisms are both used to close off the passage of liquid through the valve when not in use. The first mechanism involves an inverting, flexible valve material which has a slit therein and responds to suction. The second mechanism involves the use of a blocking element, which is impenetrable to the passage of liquid. The slit sits against the blocking element, sealing or blocking off the slit, to yet further prevent the passage of liquid through the valve.

As the present invention is directed to providing a no-spill cup, reducing the degree of leakage is, of course, important. By providing both the elastomeric member with a slit and a blocking element, a sealing mechanism is provided which reduces spillage beyond that of either mechanism alone. None of the references cited in the Office Action teach or suggest such a no-spill mechanism having a slit sitting against a blocking element such as is recited in all of the pending claims.

Robbins discloses a drinking cup with a domed elastomeric member having a slit for passage of fluid. See e.g., Column 1 lines 60-62. As discussed above, since a slit is provided in a flexible member, application of suction causes elastomeric displacement or flexing of the elastomeric member, which allows fluid to pass through the slit. See, Column 2 lines 18-26.

Robbins, however, does not teach or suggest the use of a separate, additional closing element for the slit to rest against. Figures 3 and 4, for example, show that the slit 49 in domed

portion 48 does not rest against any second member. Robbins does not teach or suggest the blocking element of the present invention.

Bachman also teaches a drinking cup with a valve having a slit therein. In Bachman, valve 27 is made of rubber and includes a relatively flat head section 29 with slits that define cooperating fingers 30. See, Figure 2 and Column 3 lines 27-30. The valve sits in a valve retainer 28 which consists of an open ring. No teaching or suggestion is provided in Bachman of a slit sitting against a second member which covers the slit. In Bachman, valve retainer 28 is open in the central area where the slit is located. The valve retainer does not include any element to block the passage of liquid through the slit. Thus, Bachman also does not teach or suggest a slit resting against a blocking element as in the claimed invention.

Belcastro teaches a drinking cup in which applied suction pulls an outer retainer washer 50 and a first diaphragm member 52 to flex them away from an outlet seat 60. See, Col. 7 lines 23-30. When a predetermined level of pressure is applied, the edge of a first diaphragm 52 concavely bends, since the first locator post 54 is fixedly attached to the center of the outer retainer washer, preventing the center of the first diaphragm from flexing. See, Col. 6, lines 28-36 and 58-63. Once the edge of diaphragm 52 has bent upward and away from its seat, liquid can flow around the diaphragm and out through the spout. See, Col. 7 lines 26-30. The resting position, in which the diaphragm 52 is flat, is shown in Figure 5. In that position, the diaphragm is flat against the outlet seat, so that no liquid can pass around the diaphragm and through the spout.

Belcastro does not teach a flexible member having a slit therein for passage of liquid through the slit. Belcastro also does not teach a flexible member with a slit, wherein the slit moves onto and off of a blocking element. Thus, Belcastro does not teach or suggest the subject matter of the claimed invention.

As a result, it is believed that all of the subject matter of the pending claims is fully in

patentable form. The majority of the claims have been amended to distinctly recite the embodiment wherein the slit rests against a blocking element. Pending Claim 3 already included that limitation therein and has merely been amended (as with the other claims) to substitute the language "blocking element" for the prior language "sealing portion" therein. None of the references teach or suggest this subject matter of the pending claims, wherein a slit is provided in a flexible member and wherein the slit also sits against a separate blocking element.

Since none of the references teach or suggest the subject matter of the pending claims, either individually or in combination, it is believed that all of the claims are fully patentable. A prompt and favorable allowance of all of the claims is respectfully requested and believed fully warranted.

Dated: October 2, 2000

Respectfully submitted,



Morris E. Cohen (Reg. No. 39,947)
1122 Coney Island Avenue, Suite 217
Brooklyn, New York 11230
(718) 859-8009 (telephone)
(718) 859-3044 (facsimile)